

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

**GERALD BEELAND d/b/a POBIDDY
KENNELS,**

Plaintiff,

v.

**SCHELL & KAMPETER, INC.,
DIAMOND PET FOODS, INC. d/b/a
DIAMOND PET FOODS, PEOPLES
GRAIN COMPANY, INC., JOHNSTON
SEED COMPANY, INC.
JOHNSTON-LOCKE SEED, CO., INC.,
FICTITIOUS ENTITIES 1-3,**

Defendants.

**CIVIL ACTION FILE
NO. 1:06-CV-74 (WLS)**

PLAINTIFF'S FIRST AMENDMENT TO COMPLAINT

COMES NOW Gerald Beeland d/b/a Pobiddy Kennels, Plaintiff in the above-styled case, and hereby amends his Complaint as follows:

125.

Plaintiff re-alleges and incorporates herein by reference paragraphs 1 through 124 of Plaintiff's original Complaint, and any and all counts and other claims for relief therein, including without limitation the WHEREFORE clause and prayers for relief.

126.

Plaintiff hereby amends Paragraph 8 of his original Complaint to reflect the additional allegations: This Court has original jurisdiction over this action pursuant to 28 U.S.C. 1331 because the Complaint as amended raises a federal question.

COUNT XVIII

VIOLATIONS OF FEDERAL LAW

127.

Plaintiff re-alleges and incorporates by reference paragraphs 1 through 126 of this Complaint.

128.

Defendants have violated the Federal Food Drug and Cosmetic Act, the Federal Environmental Protection Act, federal consumer protection acts, and other laws of the United States.

129.

The federally imposed recall in question in this case was initiated as to pet food placed into the stream of commerce by Defendants.

130.

Defendants failed to employ necessary checks and/or inspections prior to selling, distributing, or placing a defective product (pet food) into the stream of commerce as provided under federal law.

131.

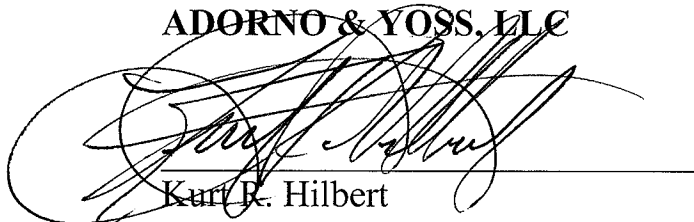
The recall was issued by the federal government alleging that the product (pet food) presented a risk of illness or injury or gross consumer deception establishing a per se violation of federal law.

132.

Plaintiff seeks all remedies at law and equity under federal law, including without limitation, the federal Food Drug and Cosmetic Act, the federal Environmental Protection Act, and federal consumer protection acts.

Respectfully submitted this 27th day of June, 2006.

ADORNO & YOSS, LLC

A large, stylized handwritten signature in black ink, appearing to read 'Kurt R. Hilbert', is written over a horizontal line.

Kurt R. Hilbert
Georgia Bar No. 352877

Attorney for Plaintiff

Two Midtown Plaza
1349 West Peachtree Street, NW
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Plaintiff's First Amendment to Complaint was served upon the opposing parties by placing same in the United States Mail, via electronic filing with the Clerk of Court using the EM/ECF system, which automatically sends an email notification of such filing, and by regular mail with adequate postage thereon and properly addressed as follows:

Mary M. Katz, Esq.
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This 27th day of June, 2006.

By: 

Kurt R. Hilbert
Georgia Bar No. 352877

Attorney for Plaintiff

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